

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 18, 2004

**D042521       Harcourt et al. v. Davi et al.**

The petition for rehearing is denied.

**D043239       Coulston v. Aztec Bowling, Inc.**

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D043848       In re Brandon M., a Juvenile**

The judgment is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Irion, J.

**D045137       Brown v. Superior Court of San Diego County**

Let a peremptory writ of mandate issue directing the superior court to vacate its order denying ancillary funding, conduct further proceedings consistent with this opinion, and determine the matter. This opinion shall become final 10 days from the date of filing. (Cal. Rules of Court, rule 24(b)(3)). The stay issued on September 30, 2004, will be vacated when the opinion is final as to this court. McIntyre, J.; We Concur: McConnell, P.J., Irion, J.

Court convened at 10 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron  
Clerk: D.E. Moore

**D042385       Building Industry Association of San Diego County et al. v. State Water Resources Control Board et al.**

Cause called on merits. David L. Mulliken, Esq. argued for appellant. Carol A. Squire, Deputy Attorney General argued for respondent, State Water Resources Control Board. David Saul Beckman, Esq. argued for respondent, San Diego Baykeeper. James Patrick Lough, Esq. argued for rpi-respondent, City of Coronado and etc. Paul Noel Singarella, Esq. was present in oral argument, but did not have a presentation. Mr. Mulliken replied. Cause submitted.

Court adjourned at 11:10 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 19, 2004

**D045059        In re Nguyen on Habeas Corpus**

The petition is denied.

**D044923        Stretton v. Peters as special administrator etc. et al.**

Plaintiff Diane G. Stretton's appeal is DISMISSED on the ground the notice of appeal does not specify an appealable order. An appealable order is essential to appellate jurisdiction and an order is not appealable unless expressly made so by statute. (State Farm Fire & Casualty v. Hardin (1989) 211 Cal.App.3d 501, 505). The notice of appeal states plaintiff is appealing orders, entered on July 23, 2004 and August 5, 2004, denying her "motion to set aside and/or strike all of Kriebel's pleadings and rulings of 4/22/2004 and 7/23/2004" and "motion to correct clerical error and strike answer of Peters as untimely and enter default nunc pro tunc." Neither the July 23 nor August 5 order refers to a motion to correct a clerical error, strike an answer, or enter a default. Through the attachments to her civil case information statement, plaintiff has indicated she is challenging (1) the portion of the July 23 order denying her request to set aside and/or strike all of the pleadings filed by the Estate of Clara Richardson; (2) the portion of the July 23 order denying her request to set aside and/or strike an unspecified ruling of April 22, 2004, and (2) the portion of the August 5 order taking an unspecified "motion on August 20, 2004" off calendar. None of these orders is appealable by statute or, as plaintiff contends in her civil case information statement, as an order giving effect to a void judgment. Plaintiff's implied request that we treat the appeal as a petition for writ of mandate is DENIED.

**D045082        In re Nguyen on Habeas Corpus**

The petition is denied.

**D044955        Clark v. Superior Court of San Diego County/People**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 20, 2004

**D042554        People v. Lane**

The judgment is affirmed. McConnell, P.J.; We Concur: McDonald, J., Aaron, J.

**D044163        In re Justice P. et al., Juveniles**

Judgments are affirmed. CERTIFIED FOR PUBLICATION Haller, J.; Huffman, Acting P.J., McDonald

**D044852        In re Gray on Habeas Corpus**

The petition is denied.

**D043708        In re Nicholas D., a Juvenile**

The petition for rehearing is denied.

**D043006        People v. Pleasant**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. O'Rourke, J.; I Concur: McConnell, P.J.; I Dissent (by opinion): McIntyre, J.

**D045070        Deanna H. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petition Deanna H. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D045087        Kathleen M. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petition Kathleen M. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed. The case as to Kathleen M. is dismissed.

**D045072        Christopher H. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petition Christopher H. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed. The case as to Christopher H. is dismissed.

**D041726        People v. Vasquez**

For the foregoing reasons, the judgments are affirmed. Irion, J.; We Concur: O'Rourke, Acting P.J., Aaron, J.

**D044142        People v. Perry**

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D042351        Ryan v. Ronquillo et al.**

Judgment affirmed. Irion, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D044217        People v. Fuller**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 20, 2004 (Continued)

**D045234        Hall v. Superior Court of San Diego County/People**  
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 21, 2004

**D041795        De Catalan et al. v. State of California**

Judgment affirmed. Benke, Acting P.J.; We Concur: Nares, J.; McIntyre, J.

**D043653        People v. Daniel**

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., McDonald, J.

**D045015        Turner v. Workers' Compensation Appeals Board/Pacific Corinthian Life Insurance et al.**

The petition is denied.

**D042879        People v. Gonzales**

The petition for rehearing is denied.

**D043348        People v. Meraz**

The judgment is affirmed.

**D043942        People v. Rainey**

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D043149        Courtney et al v. Lister**

It is ordered that the opinion filed herein on September 30, 2004, be modified as follows [text of order].

There is no change in the judgment. The respondents' petition for rehearing is denied.

**D042694        People v. Martinez**

The judgment is affirmed. McIntyre, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D043142        Sanchez v. San Diego Unified School District et al.**

The request for publication of the opinion is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 22, 2004

**D042456        People v. Souvannavong**

By way of modification of the abstract of judgment, the 10-year consecutive sentence imposed upon a true finding under section 186.22 is ordered deleted and replaced with imposition of a 15-year period in which appellant will not be eligible for parole. As modified the judgment is affirmed.  
Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

**D045134        Kawesch et al. v. Superior Court of San Diego County/Olmsted**

The petition is denied.

**D041819        People v. Butler**

It is ordered that the opinion filed herein on October 6, 2004, be modified as follows [text of order].  
There is no change in judgment.

**D043479        People v. Mortensen**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D044393        In re Briana S. et al., Juveniles**

The orders are affirmed. Haller, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D040082        In re Marriage of Ward**

**D041110        In re Marriage of Ward**

(consolidated) Dismissed. Benke, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

**D044491        People v. Sanchez**

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D045089        Edenbaum v. Superior Court of San Diego County/Kay**

The petition is denied.

**D045136        In re Licon on Habeas Corpus**

The petition is denied.

**D045170        In re Smith on Habeas Corpus**

The petition is denied.

**D045171        Marez v. Superior Court of San Diego County/People**

The petition is denied.

**D045252        Mendiola v. Superior Court of San Diego County/People**

The petition is denied.

**D045259        Peter C. v. Superior Court of San Diego County/San Diego County Health & Human Services Agency**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 22, 2004 (Continued)

**D042896        People v. Wagener**

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Benke, Acting P.J.;  
I Concur: Irion, J.; I Concur and Dissent (by opinion): McDonald, J.